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OFFICE OF PETITIONS

In re Application of :
Robert D. Groneberg et al : DECISION GRANTING
Application No. 10/823,372 : PETITION
Filed: April 12, 2004 :
Attorney Docket No. 03-087-A :
:

This is a decision on the petition filed May 11, 2005, requesting that the above-identified application be accorded a filing date of April 12, 2004, rather than the presently accorded filing date of April 13, 2004.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 12, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, *inter alia*, a copy of the Express Mail label, receipt No. EV334705585US (which number appears on the transmittal letter for this application), but the Date-In is not clear. Further, the petition is accompanied by a copy of the relevant page of petitioner's "Express Mail Deposit Log" with the following headings: Attorney, MBHB Case Number, Envelope Contents, Person Depositing in Mailroom, Post Office Location, Date of Delivery to Post Office, Time of Delivery to Post Office, and Person Making Delivery. Unfortunately, the Express Mail number is listed on the Envelope Contents as EV334P5585US.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. Since the "Date-In" is barely legible on the Express Mail label, an independent inquiry was made of the U.S. Postal Service which verifies acceptance of the Express Mail package bearing label No. EV334705585US (copy attached) on April 12, 2004. Accordingly, in view of the available evidence, it is concluded that the application was deposited as "Express Mail" with the US Postal Service on April 12, 2004. Accordingly, the instant application is entitled to a filing date of April 12, 2004, and has been so accorded.

The petition is granted. No fee is required and none has been charged.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1625 for examination in due course.

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Track/Confirm information